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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,290	02/13/2004	Hubert Beck	4452-592	7424
27799	7590	08/14/2006	EXAMINER	
COHEN, PONTANI, LIEBERMAN & PAVANE 551 FIFTH AVENUE SUITE 1210 NEW YORK, NY 10176			NGUYEN, XUAN LAN T	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/779,290

Applicant(s)

BECK, HUBERT

Examiner

Lan Nguyen

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2005 and 01 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/25/05 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 5 recites the limitation "said upper attachment" in line 2. There is insufficient antecedent basis for this limitation in the claim. It is believed that Applicant intended for claim 5 to depend on claim 4. Claim 5 is being treated as depending on claim 4.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 3, 6, 7, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Funkhouser (USP 2,458,157).

Re: claim 1, Funkhouser shows a piston-cylinder unit, as in the present invention, comprising a cylinder 20, a piston rod 50 having section projecting out of said cylinder as shown, said section having an end received through a mounting bearing 34 for connecting the piston-cylinder unit to a support not shown but mentioned as two relative moveable members in column 1, line 8, and a bellows 41 covering said section of said piston rod for protecting said section of said piston rod against at least one of dirt and damage, wherein an unimpeded flow connection 36, 42 is provided in the end of said piston rod, said flow connection being permanently open and communicating freely with an interior space defined in said bellows and freely with the atmosphere such that said flow connection allows a free flow of air between the atmosphere and said interior space when said interior space in said bellows undergoes a change in volume in response to a relative movement between the bearing and the cylinder, as stated in column 2, lines 10-12 and 23-28.

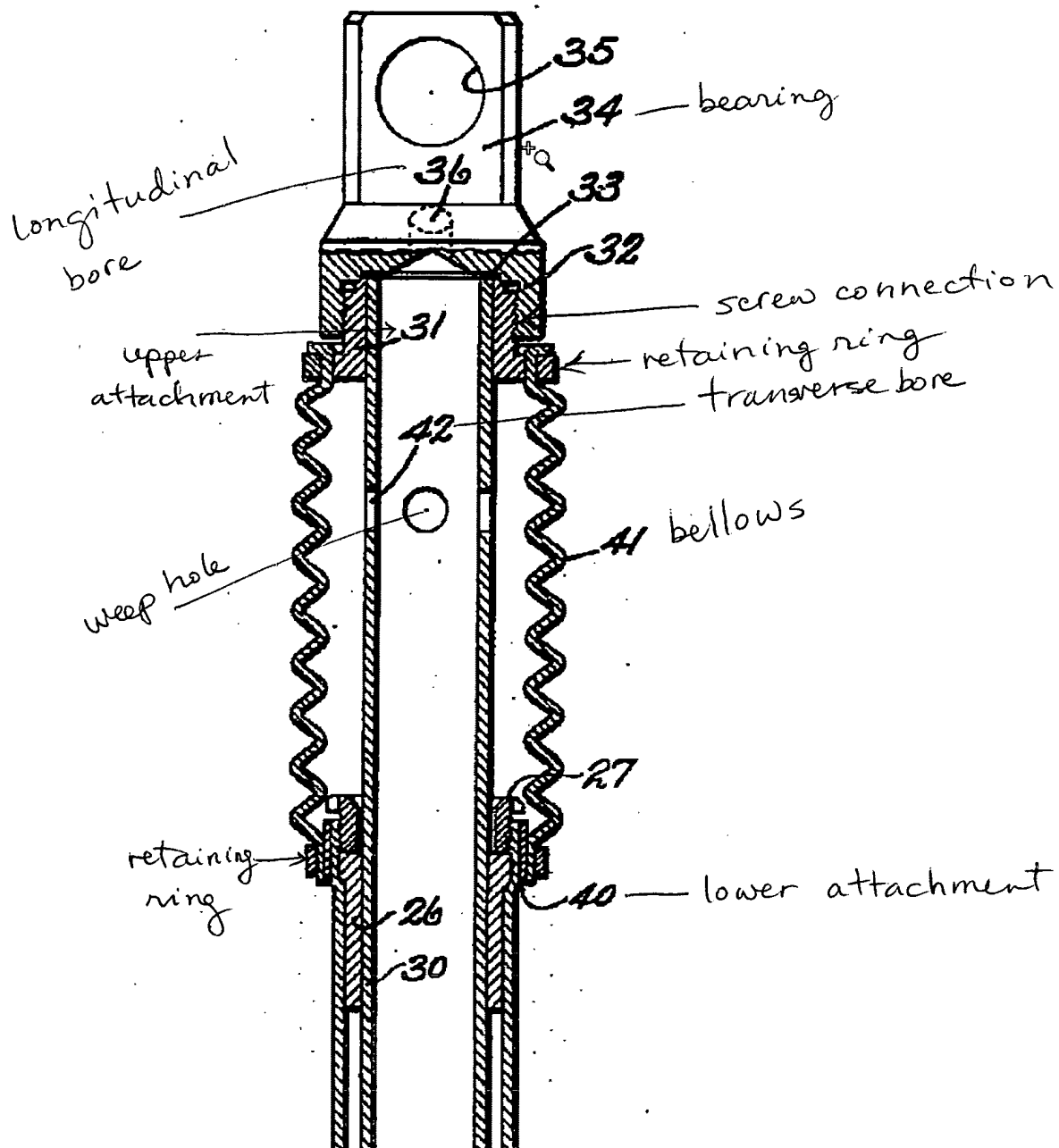
Re: claim 2, Funkhouser shows longitudinal bore 36 and transverse bore 42.

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Re: claim 3, Funkhouser shows the mounting to be a screw joint as illustrated in figure 1.

Re: claims 6, 7 and 9, Funkhouser shows the cylinder piston unit as claimed.

Re: claim 10, Funkhouser further shows the bellows to be provided with a weep hole 42. Note that there are four holes 42.



Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

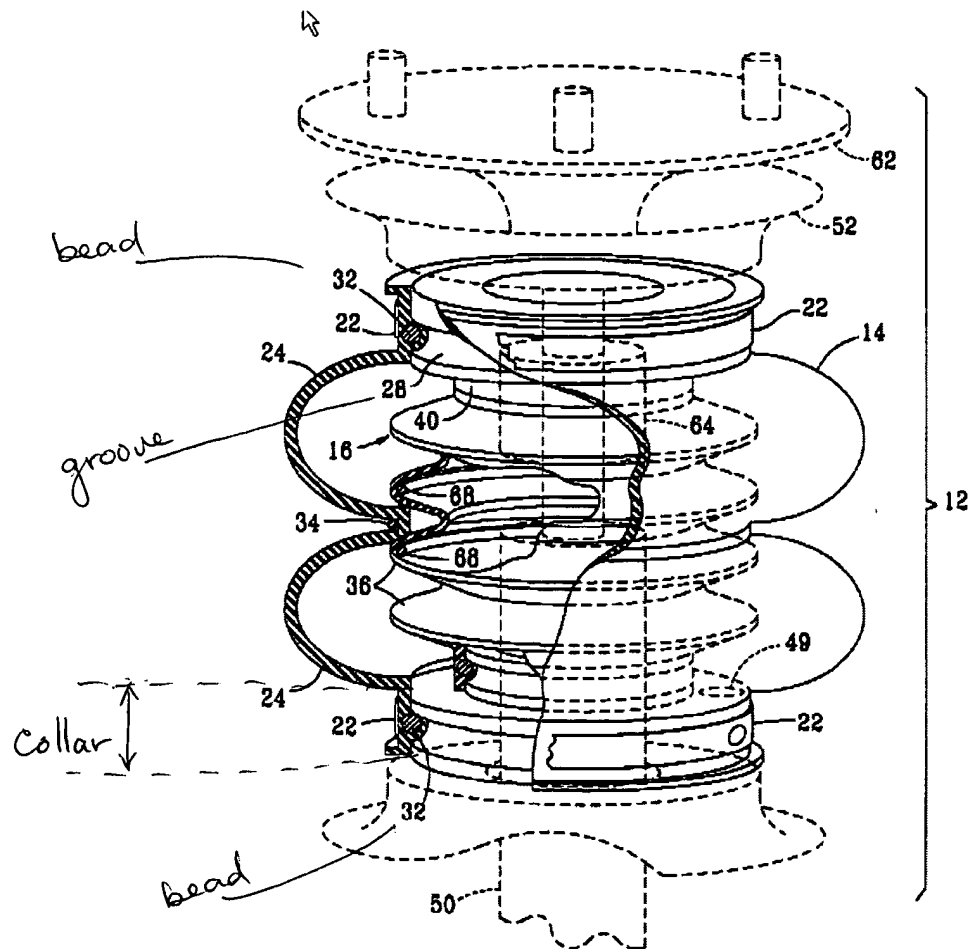
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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4, 5, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Funkhouser in view of Oishi (USP 6,332,602).

Re: claims 4 and 5, Funkhouser shows an upper attachment part 31 fixed to said bearing 34 and a retaining ring attaching the bellows to the upper attachment part 31, but lacks a groove and a bead from the bellows to engage the groove. Oishi teaches the concept of a groove 28 and a bead 32 to engage the groove in figure 2 below. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Funkhouser's unit to employ the bead and groove attachment arrangement as taught by Oishi to provide a secure connection with less number of parts as taught by Oishi. Furthermore, it is well settled that making one piece of the upper attachment part and the bearing to be old and well known knowledge.

Re: claim 11, Funkhouser shows an lower attachment part 40 and a retaining ring attaching the bellows to the lower attachment part, but lacks a groove and a bead from the bellows to engage the groove. Oishi teaches the concept of a groove 28 and a bead 32 to engage the groove in figure 2 below. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Funkhouser's unit to employ the bead and groove attachment arrangement as taught by Oishi to provide a secure connection with less number of parts as taught by Oishi.



Re: claim 12, Oishi further teaches a collar as marked above. As modified, said collar would be loaded axially against the cylinder of Funkhouser.

Response to Arguments

8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is (571) 272-7121. The examiner can normally be reached on Monday through Friday, 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan can be reached on (571) 272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lan Nguyen
Primary Examiner
Art Unit 3683

 8/1/06